

ASSEMBLY BILL

No. 847

Introduced by Assembly Member Bonnie Lowenthal

February 17, 2011

An act to amend Sections 4190 and 4195 of, and to amend the heading of Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of, the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 847, as introduced, Bonnie Lowenthal. Pharmacy: clinics.

Existing law, the Pharmacy Law, provides for the licensure and regulation of the practice of pharmacy by the California State Board of Pharmacy and makes a knowing violation of its provisions a crime. Existing law authorizes a surgical clinic, as defined, to purchase drugs at wholesale for administration or dispensing, under the direction of a physician and surgeon, to patients registered for care at the surgical clinic. Existing law requires these surgical clinics to obtain a license from the board and to comply with various regulatory requirements, and requires a surgical clinic to maintain specified records. Existing law authorizes the board to inspect a surgical clinic at any time in order to determine whether a surgical clinic is operating in compliance with certain requirements.

This bill would expand these provisions to additionally authorize an outpatient setting or an ambulatory surgical center, as specified, to purchase drugs at wholesale for administration or dispensing, subject to the requirements applicable to surgical clinics. The bill would delete the requirement that a clinic operating under these provisions be licensed by the California State Board of Pharmacy and would make that

licensure optional. The bill would specify that the board is authorized to inspect only a clinic that is licensed by the board.

Because a knowing violation of these requirements by outpatient settings and ambulatory surgical centers would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The heading of Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of the Business and Professions Code is amended to read:

Article 14. ~~Surgical~~ Clinics

SEC. 2. Section 4190 of the Business and Professions Code is amended to read:

4190. (a) *For the purposes of this article, "clinic" means a surgical clinic licensed pursuant to paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, an outpatient setting accredited by an accreditation agency, as defined in Section 1248 of the Health and Safety Code, or an ambulatory surgical center certified to participate in the Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.).*

~~(a)~~

(b) Notwithstanding any provision of this chapter, a ~~surgical clinic, as defined in paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code~~ clinic may purchase drugs at wholesale for administration or dispensing, under the direction of a physician *and surgeon*, to patients registered for care at the clinic, as provided in subdivision ~~(b)~~. (c) The clinic shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for

1 a minimum of three years for inspection by all properly authorized
2 personnel.

3 ~~(b)~~

4 (c) The drug distribution service of a ~~surgical~~ clinic shall be
5 limited to the use of drugs for administration to the patients of the
6 ~~surgical~~ clinic and to the dispensing of drugs for the control of
7 pain and nausea for patients of the clinic. Drugs shall not be
8 dispensed in an amount greater than that required to meet the
9 patient's needs for 72 hours. Drugs for administration shall be
10 those drugs directly applied, whether by injection, inhalation,
11 ingestion, or any other means, to the body of a patient for his or
12 her immediate needs.

13 ~~(e) No surgical clinic shall operate without a license issued by~~
14 ~~the board nor shall it be entitled to the benefits of this section until~~
15 ~~it has obtained a license from the board. A~~

16 (d) A clinic may, at its option, apply for a license issued by the
17 board pursuant to this section.

18 (e) If a clinic elects to obtain a license pursuant to subdivision
19 (d), a separate license shall be required for each clinic location. A
20 clinic licensed by the board shall notify the board of any change
21 in the clinic's address on a form furnished by the board.

22 ~~(d) Any~~

23 (f) If a clinic is licensed by the board, any proposed change in
24 ownership or beneficial interest in the licensee shall be reported
25 to the board, on a form to be furnished by the board, at least 30
26 days prior to the execution of any agreement to purchase, sell,
27 exchange, gift or otherwise transfer any ownership or beneficial
28 interest or prior to any transfer of ownership or beneficial interest,
29 whichever occurs earlier.

30 (g) Nothing in this section shall limit the ability of a physician
31 and surgeon or a group medical practice to prescribe, dispense,
32 administer, or furnish drugs at a clinic or surgical clinic as
33 provided in Sections 2241.5, 2242, and 4170.

34 SEC. 3. Section 4195 of the Business and Professions Code is
35 amended to read:

36 4195. The board shall have the authority to inspect a clinic *that*
37 *is licensed pursuant to this article* at any time in order to determine
38 whether ~~a the~~ clinic is, or is not, operating in compliance with this
39 article and all other provisions of the law.

1 SEC. 4. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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